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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF GUAM

21 JULIE BABAUTA SANTOS, et. al.,  
22 Petitioners

CIVIL CASE NO. 04-00006  
(Consolidated with Civil Case Nos.  
04-00038 and 04-00049)

-v-

25 FELIX P. CAMACHO, etc., et al.

### Respondents.

**SECOND DECLARATION OF JOHN  
P. CAMACHO IN SUPPORT OF THE  
BRIEF OF THE GOVERNOR,  
GOVERNMENT, AND DIRECTORS  
OF DOA AND DRT REGARDING 26  
C.F.R. § 301.6212-2**

{G0026545.DOC:13}

1  
2 I, John P. Camacho, hereby declare and state as follows:

3 1. I am the Deputy Director of the Department of Revenue and Tax ("DRT"). I make  
4 this declaration on personal knowledge and based upon my knowledge of the official records on  
5 file with the DRT. If called as a witness, I could and would testify competently as follows.

6 2. The purpose of this declaration is to supplement my previous declaration regarding  
7 26 C.F.R. § 301.6212-2.

8 3. Although forty years ago the then-acting governor of Guam issued an executive  
9 order indicating that IRS regulations generally apply to Guam, and although it is the practice of  
10 DRT to institute most IRS regulations consistent with that, in some situations it is not practical  
11 because the regulations do not reflect the realities of Guam or DRT. To the best of my  
12 knowledge, therefore, in the forty years since the executive order issued, it has been the practice  
13 of DRT not to institute some IRS regulations where not practical, and I know this to be a fact at  
14 least since I joined the agency 26 years ago.

15 3. Here, 26 C.F.R. § 301.6212-2 provides for the IRS to update taxpayer addresses by  
16 comparing data accumulated and maintained in the United States Postal Service National Change  
17 of Address database ("NCOA"). DRT has never followed this particular procedure set forth in 26  
18 C.F.R. § 301.6212-2 in updating taxpayer addresses due to the lack of financial and technological  
19 resources, as more fully explained below. Rather, the DRT has always maintained the policy of  
20 using the most reasonable and practicable means of enforcing the GTIT.

21 5. As background information, the NCOA is a database that the IRS leases from the  
22 United States Postal Service. The original database became obsolete in 2004 and was replaced by  
23 the NCOALink (the "Link") which is a more complicated system that encrypts address data  
24 submitted by each state. Via the Link, the IRS updates their master files weekly, thereby  
25 allowing for the most current address to be listed in their system.

1       6.     Unfortunately, for DRT to access the Link, DRT would need to do a complete  
2     overhaul of its current computer system, including re-programming the system and implementing  
3     new hardware, since the Link does not provide the address data in a readable format complaint  
4     with DRT's current system. The expense and time required to implement such system is  
5     currently undetermined.

6       7.     What is known, however, is that at this point, DRT lacks adequate staffing,  
7     expertise, and technology to implement such an updated system. Since 2002, DRT has had an  
8     average of 151 employees to staff all functions at DRT, which is the island's primary regulatory  
9     agency charged with implementing not only the GTIT, but also all other local taxes as well. As a  
10    result of inadequate staffing, the DRT is still several years behind in processing taxpayer returns.

11      8.     Nor is this the only challenge faced. DRT is not just in charge of tax enforcement  
12     and administration, but is also in charge of maintaining and issuing all of the island's business  
13     licenses and records, monitoring all of the island's motor vehicle records, including insurance  
14     records, and all of the island's land records.

15      9.     DRT's compliance with certain IRS regulations such as the present one is virtually  
16     impossible, particularly when such compliance involves disclosure or exchange of sensitive data  
17     to which the IRS, but not DRT, is privy. DRT seeks to comply with all the statutory  
18     requirements. But DRT can only do so much with its limited resources, and compliance with IRS  
19     regulations can sometimes exceed its resources.

20      10.    The IRS can comply with its requirements because its technological resources  
21     allow it to subscribe to systems such as the Link, or it can reach contract agreements, usually  
22     memorandums of understanding, with other federal agencies to allow them to access updated and  
23     current information. Many of the IRC sections and regulations that DRT cannot comply with  
24     require procedures that are relatively accessible to the IRS, but are not accessible to U.S.  
25     territories and insular areas that mirror the code. The present regulation is such a regulation.

11. It is for these reasons that the DRT has made a policy of following the tax regulations whenever reasonably practicable. But when, as in this instance, the regulations do not account for the unique circumstances on Guam, DRT follows alternative procedures that attempt to effectuate the same or similar results.

12. The DRT recognizes the importance of maintaining and updating taxpayer addresses. However, it is impossible to follow the current system contemplated by 26 C.F.R. § 301.6212-2 without additional resources and technological expertise that simply do not exist at DRT at the present time.

I swear under penalty of perjury under the laws of the Territory of Guam and the United States of America that the forgoing is true and correct.

Executed on this 29th day of October, 2007 in Tamuning, Guam.

John P. Camacho  
**JOHN P. CAMACHO**